

REMARKS/ARGUMENTS

Reexamination and reconsideration of this Application, withdrawal of the rejection, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the attached evidence and remarks that follow. Claims 1-42 are pending in the application. Claims 1-21 are currently being examined, and claims 22-37 have been deemed withdrawn as related to a non-elected species. As noted in the Restriction Requirement dated January 10, 2007, none of the previous claims of record were considered to be generic. Applicants now submit new independent claim 38, which is believed to be generic to the three species set forth in the Restriction Requirement. In particular, note that claim 38 recites that the ion exchange resin can be contained within the compartment or dispersed within one or both sections of the filter material. Dependent claims 39-42 recite subject matter previously presented in other claims of record. Claims 1-3 have been amended as previously suggested by the Examiner to clarify the regions of the compartment. Applicants respectfully submit that no new matter is introduced by these amendments.

Applicants recently realized that claims 26-28 were erroneously labeled as withdrawn from consideration. It is noted that claims 26-28 depend from claim 1, which is an elected claim. This fact may have been overlooked by the Examiner when making the original Restriction Requirement, which was based on the alleged distinct species of independent claims 1, 22, and 29. Since claims 26-28 do not depend from a non-elected claim, it is respectfully submitted that these claims should be examined along with claims 1-21.

The Examiner continues to reject claims 1-3 as indefinite due to the allegedly confusing reference to first and second regions of the compartment. In order to expedite prosecution, Applicants have amended claims 1-3 as previously suggested by the Examiner to remove reference to "first" and "second" regions of the compartment. Instead, the compartment regions are now referred to as region "A" and region "B." This is believed to be a non-narrowing amendment. Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-3, 5-17, 19, 20, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,079,962 to Litchfield *et al.* in view of U.S. Patent No.

3,279,476 to Noznick *et al.*, U.S. Patent No. 3,251,365 to Keith, II, and U.S. Patent No. 3,459,194 to Eichel. The Examiner also rejects claim 4 as unpatentable over the above-noted combination of references, and further in view of an encyclopedia reference. Claim 18 stands rejected over the above-noted combination of references and further in view of U.S. Patent No. 5,714,126 to Frund. In all three rejections, the Examiner relies upon the Litchfield reference as disclosing a multi-component cigarette filter that has two conventional filter plugs and a chamber therebetween that is split into two compartments. The Examiner relies upon the Keith reference as disclosing that cellulose acetate filters do not remove all harmful constituents of tobacco smoke and suggesting the use of activated charcoal. The Noznick patent is relied upon as disclosing granular filtering agents. The Eichel patent is relied upon as describing the use of anionic exchange resins to filter tobacco smoke. Applicants respectfully traverse these rejections.

Applicants continue to stress that the rejection proposed by the Examiner does not address all limitations of the claims. In particular, none of the references of record, considered singly or in combination, teach or suggest the filter structure claimed in any claim of record. All claims of record require that the first section of fibrous tow filter material exhibit a greater particulate removal efficiency than the second section of fibrous tow filter material. The Examiner has admitted that the Litchfield patent does not even disclose the use of fibrous tow filter materials as presently claimed in any form. The Examiner relies upon the Keith reference as disclosing the use of such filter materials. However, there is no suggestion in the Keith reference to utilize fibrous tow filters having different particulate removal efficiencies in the same filter. Instead, the Keith reference clearly suggests using the same filter plug materials for both plugs 15 and 16. Note that in the example in column 6, identical plasticized cellulose acetate filter plugs were utilized in exemplary cigarettes. None of the other references cited by the Examiner correct this deficiency in the Keith reference and the Litchfield reference. Accordingly, for this reason alone, Applicants respectfully request reconsideration and withdrawal of this rejection.

In the final Office Action, the Examiner addresses this argument by simply stating that the Litchfield patent discloses two filter sections 15 and 18 having different sizes and, therefore,

the two sections would clearly have different particulate removal efficiencies. Applicants respectfully traverse this reasoning. First, in every rejection of record, the Examiner is relying on the Keith patent as motivating the substitution of the filter materials of the Keith patent for the filter materials of Litchfield. As noted above, the Keith reference teaches the use of identical plasticize cellulose acetate tow filter sections. Thus, according to the Examiner's logic, one of ordinary skill in the art would be motivated to use the same filter plug sections described and taught in Keith. The Examiner has not explained why one of ordinary skill in the art would look to Keith for the filter materials, but still rely on the Litchfield reference for the relative sizes of the two sections of filter material, particularly when the filter material utilized in Litchfield is far different from the filter material of Keith.

Nonetheless, even considering the Examiner's logic to be correct, which Applicants obviously do not admit, the combination of Litchfield and Keith would still not result in the claimed invention. As noted by the Examiner, filter section 15, which is on the tobacco side of the filter, does appear to have a different size than the mouth end section of filter material 18. However, section 15 appears considerably shorter than filter section 18. Accordingly, one would expect that the particulate removal efficiency of section 15 would be less than the particulate removal efficiency of filter 18 because of its smaller size. As a result, according to the Examiner's logic, the combination of references actually teaches away from the claimed invention since it is the Examiner's contention that one of ordinary skill in the art would maintain the relative filter section sizes that appear to be disclosed in the illustrations of the Litchfield patent. Thus, according to the Examiner's rejection, one would modify the Litchfield filter by incorporating the tow materials of the Keith patent, while maintaining the shorter section at the tobacco end of the filter. This would not result in a filter having a fibrous tow on the tobacco side of the filter that has a greater particulate removal efficiency. Instead, one would clearly expect the particulate removal efficiency of section 15 to be lower because less material is being utilized. In contrast, all claims of record require greater particulate removal efficiency to be exhibited by the filter section proximal to the tobacco rod (i.e., in the same position as section 15 of Litchfield). Accordingly, the cited art fails to teach or suggest each and every

claim limitation of the present invention. For this additional reason, Applicants respectfully request reconsideration and withdrawal of these rejections.

Applicants also note that claims 26-28, which were erroneously withdrawn pursuant to the Restriction Requirement, provide even further distinctions between the cited art and the claimed invention. These claims specifically require that the first section of filter material comprise filaments having a lower weight per unit length than the filaments of the second section of filter material. As noted above, the Keith reference, which is the only reference relied upon by the Examiner as disclosing fibrous tow materials in a filter, fails to suggest the use of filter sections having such characteristics. Instead, the Keith reference clearly suggests using identical fibrous tow sections. For this additional reason, Applicants respectfully submit that claims 26-28 are individually patentably distinct from the cited references. Accordingly, Applicants further traverse the rejections as applied to claims 26-29.

In light of the foregoing, Applicants respectfully submit that claim 1 and all claims dependent thereon are patentable over the cited art. Additionally, generic claim 38, which also requires the first section of filter material to have a greater particulate removal efficiency than the second section of filter material, is also patentable over the cited art. Accordingly, Applicants respectfully request examination of further species, such as the species of claim 22 and claim 29.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/christopher m. humphrey/

Christopher M. Humphrey
Registration No. 43,683

Appl. No.: 10/675,937
Amdt. dated 10/31/2007
Reply to Office action of October 9, 2007

Customer No. 00826

ALSTON & BIRD LLP

Bank of America Plaza

101 South Tryon Street, Suite 4000

Charlotte, NC 28280-4000

Tel Raleigh Office (919) 862-2200

Fax Raleigh Office (919) 862-2260

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON OCTOBER 31, 2007.